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ABSTRACT

A history of education in the state of Wyoming, along with a description of recent legislative initiatives, are presented in this paper. It opens with statewide reorganizations begun in the 1960s that unified school districts and equalized property valuation. A decade later a court order ruled the system inequitable and new laws provided for a uniform tax rate to be levied annually for all school districts thereby obviating taxpayer equity complaints in the operational area of school budgets. From 1983 to 1993 funding increased for schools but many citizen were still unhappy, which resulted in lawsuits and a model for reform. This resultant model created three prototype schools covering elementary (K-5), middle (6-8), and high school (9-12) and provided financial input for uniform categories of services and goods as the elements for annual distribution of state aid. The effects of these changes are discussed, including the intent of the reform, the remaining inequality in public education, and the use of annual cost surveys and adjustments in the model to arrive at the averages so it will adjust to increased costs. However, unless the legislature increases revenues appropriated into the school finance system, there may be "winners" and "losers" among the school districts. (Includes a summary of Wyoming's cost-based school finance system.) (RJM)

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Wyoming's "Education Reform & Cost Study"

National Conference of State Legislatures
Joseph B. Meyer
November 8, 1997

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THERE'S A LONG LONG TRAIL AWINDING IN WYOMING: 1

Few might have expected Wyoming to be in the forefront of the continuing national saga of educational reform and finances. Wyoming is a state with less than 500,000 people, less than 100,000 students, more than 97,000 square miles and no major metropolitan area. It is a state with a long tradition encouraging public education and local control of expenditures for public education subject to some state guidelines. The mineral industries constitute the primary source of public funds for education and property taxes for other taxpayers are low in comparison to most other states. There are no state income or estate taxes. Wyoming students have traditionally performed above the average performance of students from other states. There are no inner cities to worry about, nor substantial minority populations. And yet the world of public education in Wyoming has been turned upside down.

What has happened over the past forty years is described in a number of articles and court decisions later referenced. A more extensive analysis of the Why and How of the matter remains.

ORIGINS OF THE SPECIES:

During the 1950's Wyoming adopted the initial State Foundation Program which guaranteed a minimum financial base for Wyoming school districts which has continued to the present with periodic modifications. The Program provides for the calculation of Class Room Units through a series of divisors scaled in accord with numbers of students in each district, state aid for which typically being set every two years during legislative budget sessions, and add on amounts for special education, transportation expense, operating and purchase of buses, vocational education and the like. From the basic Foundation calculated for each district, local resources are subtracted resulting in additional funding for school districts having less local resources than the amounts calculated as authorized under the Foundation Program. Through it all, school district boards of trustees have been empowered to set salaries, determine personnel needs and make a myriad of other decisions necessary to run and manage schools and school districts.

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FIRST ITERATION:

The first salvo occurred in the late 1960's when the Wyoming legislature directed school district reorganization to occur with the results to be that all school districts become unified, encompassing grades K or one through 12, and that property valuations be more equalized among the resulting school districts. After some struggles the number of school districts was reduced from several hundred to 46 unified school districts and three elementary school districts on the Wind River Indian Reservation scattered among 23 Wyoming counties. Although property base disparities were substantially reduced among school districts, a typical result of mineral discoveries or increased development has been that the equalization at least in school districts being fortunate to be located in areas having mineral deposits, decreases over time, with one school district being "poor" one decade and "rich" the next. To a certain extent the Foundation Program mitigated these disparities but since each school district could determine the amount of its annual property tax levy, taxpayer equity from district to district was absent and a few districts clearly had the money advantage in their education programs.

COURT INTERVENTION:

Stage two of the Wyoming experience occurred a decade later. After several early warnings by the Wyoming Supreme Court following the Serrano decision such as "the time has come when we can no longer ignore inequalities throughout our state in the matter of taxation for school purposes" and reminding the Wyoming legislature that school finance reform had to be made, the Wyoming Supreme Court in 1980 held the entire Wyoming school finance system, including financing for capital facilities, to be unconstitutional. The Court noted that "It is nothing more than an illusion to believe that the extensive disparity in financial resources does not relate directly to quality of education." and "It is our view that until equality of financing is achieved, there is no practicable method of achieving equality of quality." The decision did not contain imperatives to address "program equity" among school districts. The Court gave the legislature two years in which to modify the system. Following the legislative action, the court seemed to be satisfied with the result and dismissed the action.

Immediately after the opinion was released, the Wyoming legislature created a select committee to address and recommend solutions to the issues raised by the Wyoming Supreme Court. Since the Court declared the entire system unconstitutional rather than particular statutes, legislators were left without court guidelines (or hints) of what might constitute a constitutional school finance system, a dilemma which has continued under the most recent Wyoming Supreme Court decision. Thereupon the select committee reviewed the operation and interrelationship of the entire system to determine the causes and significance of financial disparities due to specific features of the Wyoming school finance system. The select committee then developed recommendations which included a proposed constitutional amendment and the entire package was enacted by the Wyoming legislature following adoption of the constitutional amendment during the 1983 legislative session.

At the time the select committee commenced its labors, revenues per student varied from $24,255 in a small rural district to $3,004 in a larger school district with the majority of the districts in the upper tiers being small and those in the lower tiers being the larger school districts. The normal distribution from the statewide average revenues/ADM was 26.7%, or a range of normal distribution between $3,299 and $5,702/ADM. This was attributable to a number of factors primarily the location of relatively larger taxable valuations per student in rural districts, lower divisors favoring rural districts in computations for Class Room Units and add on programs which were taken advantage of by some districts and not others.

Following the work of the select committee, revenues per student varied from $12, 520 in the same small rural district to $3,666 in the same larger school district. The normal distribution from the statewide average revenues/ADM was 12.94% with 3.44% deviation being due to location of property base and 9.50 % being due to legislative policy choices affecting the distribution of state revenues among the several school districts under the Foundation Program.

SPECIFIC LEGISLATIVE RESPONSES:

The solution to taxpayer equity and shifting property tax bases was addressed directly and simply by the select committee. The committee recommended, the voters approved and the legislature adopted provisions which set a uniform tax rate to be levied annually for all school districts, 25 mills, thereby obviating taxpayer equity complaints in the operational area of school budgets. In addition, any school district which received more total revenues than computed as the district's share under the Foundation Program was required to rebate the excess over a stated amount to the state. These two initiatives resulted in substantial increased revenues being distributed to many school districts. For example, one of the current Plaintiff school districts received an additional $8 million state aid, or in excess of 15% of its 1982 budget, from 1983 onward.

SETTING THE STAGE FOR A SECOND DECISION

For the next decade, 1983 to 1993, increased funding for schools continued but storm clouds gathered. The legislature investigated specific costs of school districts and concluded the current finance system was adequate to address perceived cost disparities. The state economy and revenues stagnated such that reserve funds, including monies dedicated to school capital construction, were shifted and expended to maintain the state budget and periodic increases to the CRU value. The plaintiff districts and others petitioned the legislature to make additional substantial increases to state school entitlements on the grounds that their costs of doing business and enhanced programs had increased substantially, without much success. Thereupon, the plaintiff districts, and other interested citizens, filed a lawsuit.

THE SECOND COURT INTERVENTION

The Court's decision was rendered on November 8, 1995 and was a unanimous decision. The general result might have been predicted since the court applied the rule of evidence of strict scrutiny in reviewing the state school finance system which essentially required the state and rural school districts to prove a negative, i.e.: that the system was not unconstitutional by proving that variations in dollars per pupil from school district to school district were justified based on cost differentials. Unfortunately when one uses S/ADM comparisons, a large portion of the differentials are statistical and do not indicate that a given district has more money for enhanced programs than other districts. Absent justification, the current system was thus ruled unconstitutional. What was the legislature required to do?

The Court addressed provisions of the Wyoming Constitution requiring the Wyoming legislature to provide for "a complete and uniform system of pubic instruction" and to provide revenues which "will create and maintain a thorough and efficient system . . . adequate to the proper instruction of all youth in the state". The Court then concluded that the fathers of the Wyoming Constitution meant "having no deficiency" and "complete in all respects; unqualified; perfect" when using the word "complete" and "thorough". Although the Court indicated that the duty of the Wyoming Legislature was to define and specify what a "proper education" was for a Wyoming child by reference to trial testimony, the Court seems to require at least the following of the Legislature in regards to proper education:

1. Small class size, low teacher/student ratios, equal access to textbooks, low personal computer/student ratios;

2. Substantially uniform substantive curriculum;

3. Ample, appropriate provision for at-risk students, special problem students, talented students;

4. Meaningful standards for course content and knowledge attainment; and

5. Timely and meaningful assessment of all students' progress in core curriculum and core skills.

The court concluded that the legislature must first design the "best" educational system and fund it within a time frame of a year and one half.

LEGISLATIVE RESPONSE:

The Wyoming Legislature assigned tasks to six legislative committees to define baskets of goods to be furnished to students by school districts, develop means of financing the

goods and review and recommend methods to address school district capital construction needs. The Legislature also hired a consultant to create a "cost-based" state school finance system. The consultant developed, designed and submitted a Cost-Based Block Grant Model for Wyoming School Finance to the Wyoming Legislature in April, 1997.

The consultant, Management Analysis & Planning Associates, L.L.C., was faced with an extraordinary task, that of designing a means to distribute revenues to school districts based on their actual costs when in part those costs have been determined locally, such as teacher salaries and class sizes. At the same time the consultant was to develop some control mechanisms such that local districts do not have blank checks on the state treasury. To the best of anyone's knowledge there were no such finance systems in effect which could serve as a model. Short of having school district budgets submitted to and approved by a state budget authority, how could actual costs be reviewed, monitored and funded?

The model creates three prototype schools covering elementary (K-5), middle (6-8) and high school (9-12) and provides financial input for uniform categories of services and goods as the elements for annual distribution of state aid. For example, the prototypical model for elementary school posits a school of 288 students, class size of 16 and, including substitute teachers and teachers aides, a pupil/teacher ratio of 14.4. Allowances are computed for average teacher salary costs and benefits, aides, pupil support, school administrators, and other items, resulting in a total resource package for the elementary school model of $1,702,584, or $5,912/ADM. The model has several problems including: (l) adjustment factors required for small rural districts not having sufficient students to reach the size of the model; (2) means to address the costs of special education students when the degree of services is typically a subjective decision; and (3) no requirement that school districts offer the class size under which state aid would be predicated.

During June, 1997, the Wyoming Legislature essentially enacted the recommendations of the Model, adopted measures of assessment, provided for a phase-in period and continued its work on identifying and funding capital construction needs to be effective commencing July 1, 1998. Further legislation will probably be enacted during or shortly before or after the February, 1998, Budget Session. Other significant initiatives:

1. Study to identify types and costs of each disabling condition;
2. Identify information or objective procedures as to transportation costs, economically disadvantaged,limited English speaking and behavioral disordered children, gifted and talented students and student activities;
3. Develop methods to review the performances of teachers and administrators, student assessments and reporting and minimum competency tests (which in part might be required for high school graduation);
4. Provide for common cores of knowledge;
5. Capture all revenues received by a school district in excess of its State entitlement;
6. Develop and fund a Wyoming Educational Technology Plan; and

7. Study teacher certification standards.

As of now, the District Court is reviewing the June, 1997, legislative actions for conformity with the dictates of the Wyoming Supreme Court, but has approved the commencement date of July 1, 1998, which has been appealed to the Wyoming Supreme Court. Final review and decisions of the Wyoming Supreme Court are expected within the next year.

OBSERVATIONS, SALIENT OR NOT:

1. As a general statement of the great value of and duty of a legislature to fund and promote public education, few would disagree with the decision of the Wyoming Supreme Court. Whether or not the duty requires the "best" educational system that money can buy remains open to debate. The rationale and dicta contained in the opinion have created several problems which not only test the capability of any legislature to comply but also create a host of additional problems as to desirable public policies in a number of instances.

2. Few doubt that the case was, is and will be about additional money for public schools in the State of Wyoming. Proof was offered by Plaintiff school districts that they have had to cut programs, were not able to provide for sufficient salary increases, and the like. Proof was not offered relative to impairment to or negative effect on the performance of their students as compared to Defendant, more rural, school districts, proof which probably does not exist. Under the former Foundation Program for FY 95-96, 98,635 students were funded in excess of $550 million, but the Court may have indicated that more is necessary.

Some Wyoming school districts have more administrators and pay higher salaries than the average. These increased costs were not matched by comparable legislative adjustments in the annual entitlements over the past ten years. In addition, a few school districts created new programs such as alternative high schools for students who were not performing as well as desired in traditional high schools and argued that all school districts should have funding for the same or similar programs. All these local policy choices have created an additional need for more money. The Wyoming Supreme Court's opinion seems to imply that a school district's costs, in some manner and with some type of mechanism, should be picked up by the Wyoming Legislature.

3. As acknowledged in the Wyoming Constitution, equal opportunity for school age youth and citizens is the constant. The constant is not opportunities of school districts which are creatures of the Wyoming Legislature. Arguments that "those school districts have more money per ADM than our school district has" as the sole basis to draw conclusions regarding program equity among the students of school districts proves nothing and has lead to pitting small rural school districts against a few larger school districts:

a. If students were charged tuition sufficient to meet the fixed costs of a public school, the cost of necessary teachers and a school superintendent in small school districts would dictate a cost per ADM three to ten times more than in the largest school districts. These increased costs have nothing to do with enhanced programs or better services. What if this cost differential in rural school districts can not be justified for whatever reasons the Court determines? Whose call is it anyway as to retaining rural school districts when whether or not they exist has little bearing on the quality of instruction at more urban schools?

Studies have shown that small communities and parental involvement in student learning probably have more significance than school programs. Can the Wyoming Legislature recognize these tendencies and seek to preserve these settings. And many small Wyoming communities will fold up and vanish without their schools and school payroll. Can the Wyoming Legislature maintain small schools and communities through its school finance system while addressing the different needs of the more urban school districts without necessarily having to fund them to the same level/ADM?

b. Conversely, what about program equity? Typically small school districts offer one or two language courses while the larger school districts offer many. Does a legislature have an obligation to ensure that if only one student in a district wants to take Russian or Chinese the school district has to offer it because one larger school district offers it? Is this "equal educational opportunity?" Other than core courses which should be accessible to every student in Wyoming, does every school district have to offer, and the Wyoming Legislature have to fund, any course or innovative program, offered by any other school district? What does "equal opportunity" of each student consist of and where does it end?

c. Finally, if the legislature were to level down by setting a cap on amounts/ADM which could be distributed to the more rural school districts, the difference in $/ADM between urban and rural schools would drop substantially. And if the legislature took the amount saved and distributed it to the more urban school districts, the amount that would be distributed is so small as to be insignificant. This probably would not meet the Court's opinion but might focus the debate on what the issue really is: More money for public schools.

4. The model designed for, and substantially adopted by, the Wyoming Legislature is based on averages and market value studies in regard to educational costs. It does not, nor can it, reflect actual costs of each school district. In fact, such a system without abolishing local boards of trustees or totally controlling their discretion may be practically impossible. The model funds ideal class sizes but does not require districts to operate by utilizing the class sizes which were funded. School district personnel will probably learn how, or may have to shift resources among the several models, K-5, 6-8 and 9-12, funded and offer larger classes than under the model.

This does not mean the model is a poor method to allocate resources among school districts in lieu of the past Foundation Program relying on divisors. The model utilizes

annual cost surveys and adjustments to arrive at the averages so it will adjust to increased costs, which is not true of the present system. But it does mean that there may be winners and losers among the school districts unless the legislature greatly increases revenues appropriated into the school finance system. And that is what the law suit was all about.

And it may mean that the Court will have to entertain additional law suits everytime a student is in a larger class size than funded under the model or who does not have access to special classes offered in other school districts. All in all the use of averages in the model reminds one of the person who drowned in a river which only averaged one foot deep. And yet the Wyoming legislature, and any other legislature which chooses to follow the opinion, may have no other options, at least in the time frame allowed by the Wyoming Supreme Court.

5. The Court failed to acknowledge the very substantial accomplishments of the Wyoming Legislature in the past in upgrading, updating and funding Wyoming public schools thereby creating an unnecessary tension and adversarial relationship between branches of Wyoming State Government. As one legislator noted: "Let me see if I got this right. Our students are performing above the national average, our school districts receive revenues well above the national average and there are surpluses of teachers applying for jobs in Wyoming schools. The Wyoming Legislature has always been responsive to Opinions of the Wyoming Supreme Court in the past. And the Wyoming Supreme Court tells the Wyoming Legislature that this means the Wyoming school finance system is unconstitutional. I still do not understand where we went wrong except that the Court wants the legislature to put more money into schools."

No legislator intended to create nor necessarily agrees with the nature of the problems noted by the Court. Every legislator wants good schools and good educational opportunities for students in Wyoming. However, some have misgivings about creating additional state programs to oversee and/or mandate school programs and expenditures, if that is what the Court may require, in lieu of local involvement, citizen involvement, in the running of public schools. However the case is ultimately resolved several outcomes have already resulted from the Court's decision: rural schools have been pitted against more urban schools; the case is one of those matters which linger on and spark debate for years, if not decades, into the future; Plaintiff school districts got more than they bargained for (which illustrates the old adage to be careful what you wish for).

REFERENCES

Equal Protection and the Financing of Public Education in Wyoming; VIII Land and Water Law Review 273 (1973)

Washakie County School District Number one v Herschler, 606 P.2d 310 (1980)

School Finance Reform in Wyoming, XIX Land and Water Law Review 135 (1984)

Campbell County School District et al v State, 907 P.2d 1238 (1995)

Financing Wyoming's Public Schools: The Wyoming Legislature Gets to Try Again, XXXI Land and Water Law Review 469 (1996)

A Proposed Cost-Based Block Grant Model for Wyoming School Finance, Management Analysis & Planning Associates, L.L.C. (1997)

WYOMING COST-BASED SCHOOL FINANCE SYSTEM SUMMARY

TASK: The Wyoming Supreme Court has required the following:

1. Conduct a cost of education study, the results of which will be used to fund Wyoming Schools;
2. The legislature must design the best educational system;
3. The legislature must take the necessary action to fund that package;
4. The state financed basket of quality educational goods and services available to all school-age youth must be nearly identical from district to district;
5. Uniform includes a standardized school curriculum;
6. State funds must be readily available for school capital construction needs.

MODEL COST-BASED ELEMENTS:

1. Infer costs from spending patterns:

TEACHER SALARIES

a. Start with statewide mean entry salary to build a base teacher salary ($20,573);
b. Add statewide mean payments for academic credits in excess of BA ($1,796);
c. Add statewide mean payments for longevity ($9,389);
d. Add statewide mean mandated fringe benefits ($6,034);
e. Add statewide mean health benefits ($3,641);
f. Total $41,433/teacher annually updated.

OTHER PERSONNEL SALARIES

a. Substitute teachers - $60/day times 175-day school year ($10,500);
b. Librarians and pupil services - costed same as teachers ($41,433);
c. School administrators and specialized professional personnel - 1.6 times teacher's salaries ($64,185+);
d. Instructional aides - statewide mean salary costs ($11,995);
e. Clerks and data entry personnel - statewide mean salary costs ($22,681);
f. Operations/maintenance personnel - statewide mean salary costs ($27,441).

SUPPLIES, MATERIALS AND EQUIPMENT

a. Supplies and instructional materials - per-pupil/grade grouping averages ($215, K-5; $190, 6-8; $275, 9-12);
b. Equipment - per-pupil/grade grouping averages ($131, K-5; $146, 6-8; $162, 9-12).

SPECIALIZED SERVICES

a. Food service - assumed self supporting;
b. Professional development - per-pupil/grade grouping assumptions ($92, K-5; $96,6-8;

$102, 9-12);

c. School district operation:

Maintenance and operation - per-pupil/grade grouping averages ($561, K-5; $649, 6-8; $800, 9-12);
Administration and Misc - per-pupil/grade grouping averages ($553, K-5, 6-8 and 9-12);
Transportation - use current system of reimbursing previous year expenses plus per-pupil/grade grouping averages for student activities ($268, K-5, 6-8 and 9-12).

SPECIAL CHARACTERISTICS OF STUDENTS

a. Special education - use current system of reimbursing 85% of actual costs but move to "census based" like Vermont, Pennsylvania, Massachusetts and Montana;
b. Gifted students - Assume three percent gifted students and $150/student;
c. Limited English proficient - Fund such identified students in excess of 20 students per grade level or 25% of school-wide ADM at 1.15% greater than the base program;
d. Economically disadvantaged - Fund where the number of students who qualify for the federal free lunch program exceeds 150% of the state average at $500/identified student.

SPECIAL CHARACTERISTICS OF SCHOOLS

a. Additional funding for necessarily small schools defined under the model;
b. Adjust funding in several categories by a regional cost-of-living index. Categories include transportation, food, recreation and personal care and apparel. Categories for housing and medical costs are being studied.

APPLICATION OF MODEL TO DISTRIBUTE STATE AID TO SCHOOL DISTRICTS:

The Model determines distributions to each school district by utilizing three prototype schools:

K-5, 288 students, assumed class size of 15 for K-3 and 18 for grades 4 and 5, or an average of 16 students per teacher. This generates 18 teachers. Add revenues for two full-time-equivalent teachers for augmentation, or twenty teachers times $41,433 for each 288 K-5 students in a school district or prorata proportion thereof. Similarly, 6-8 assumes 300 students with an average 20 students per teacher and 9-12 assumes 600 students with an average 17 students per teacher. Add amounts for other features under a number of assumptions, or prorata proportions thereof. The amounts thus calculated less local resources would be distributed to school districts. The K-5 model would result in an Adjusted $/ADM of $6,165, 6-8 Adjusted $/ADM of $6,403 and 9-12 Adjusted $/ADM of $6,781, or an average cost of $6,420/ADM as contrasted to the previous year's cost of $5,964/ADM.